

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Bernard McFadden,)	
)	C/A No. 4:10-1256-MBS
Plaintiff,)	
)	
vs.)	O R D E R
)	
Simon Major, Director of the Sumter-Lee)	
Regional Detention Center; D. Scott)	
cook Dietician of SLRDC, in their)	
individual and personal capacities,)	
)	
Defendants.)	
_____)	

Plaintiff Bernard McFadden is a pretrial detainee at the Sumter-Lee Regional Detention Center in Sumter, South Carolina. Plaintiff, proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983 on May 18, 2010, alleging that his constitutional rights had been violated in various respects. Plaintiff also filed a motion to proceed in forma pauperis under 28 U.S.C. § 1915 (ECF No. 10).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling. On October 13, 2010, the Magistrate Judge issued a Report and Recommendation in which he noted that Plaintiff is subject to the “three strikes” rule of the Prison Litigation Reform Act, which prohibits inmates from pursuing federal civil litigation without prepayment of the filing fee unless the inmate alleges imminent danger of serious physical injury. See 28 U.S.C. § 1915(g). The Magistrate Judge noted that Plaintiff does not allege that he is under imminent danger of serious physical injury. Accordingly, the Magistrate Judge recommended that Plaintiff’s motion to proceed in forma pauperis be denied and that Plaintiff be given fifteen days from the date the court rules on the Report and Recommendation to pay the filing fee. The Magistrate Judge recommended that if Plaintiff fail to timely pay the full filing fee,

the Clerk of Court refer the action to the court for an additional order to dismiss the action without prejudice. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and adopts the Report and Recommendation. Plaintiff’s motion to proceed in forma pauperis is **denied**. Plaintiff is granted fifteen days from the date of entry of this order pay the \$350.00 filing fee in full. Should Plaintiff fail to timely pay the full filing fee, the Clerk of Court shall refer the action to the court for an additional order to dismiss the action. Should Plaintiff pay the filing fee in full, the court will recommit the action to the Magistrate Judge for additional pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

November 8, 2010.